

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:12-CR-00173-RJC

USA

v.

LARRY MICHAEL BOLLINGER

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ORDER

**THIS MATTER** comes before the Court upon the defendant's response, (Doc. No. 64), to the Court's Order, (Doc. No. 63), finding his motion to unseal and provide copies of documents, (Doc. No. 61), moot because they could be obtained from former counsel.<sup>1</sup> The defendant states he is "concerned" about seeking the materials from former counsel when he intends to file a 28 U.S.C. § 2255 motion alleging ineffective assistance of counsel. (Doc. No. 64 at 1).

Pursuant to Local Criminal Rule 55.1(F), a court may order the Clerk of Court to copy and provide sealed records to a party; however, a prisoner is not entitled to free copies of documents without a showing of need, merely to comb the record in hopes of discovering some flaw, United States v. Glass, 317 F.2d 200, 202 (4th Cir. 1963), particularly when no appeal is pending and a § 2255 motion has not been filed, In re O'Kane, 91 F.3d 132, at \*1 (4th Cir. June 27, 1996) (unpublished). Court records may be provided without cost to a petitioner who has been granted permission to proceed in forma pauperis on an application for a writ of habeas corpus. 28 U.S.C. § 2250.

Here, the defendant has not filed a § 2255 motion and has not shown a particularized need for documents to decide a pending issue. Rather, he desires "to review the complete

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<sup>1</sup> A court is without authority to order former counsel to provide such materials to a defendant. In re O'Kane, 91 F.3d 132, at \*1 (4th Cir. June 27, 1996) (unpublished).

record” in order to “make an intelligent decision about the preparation of a 2255 motion.” (Doc. No. 61 at 1-2). Therefore, the defendant is not entitled to the requested documents without cost. He may request, at his own expense, the reproduction of the documents from the Clerk of Court at the rate of \$.50 per page, paid in advance. 28 U.S.C. § 1914. According to the practice in this District, the defendant must submit the list of requested documents in writing to the Clerk’s Office, Charles R. Jonas Federal Building, Room 210, 401 West Trade Street, Charlotte, North Carolina, 28202, and pre-pay by cash, check, or money order payable to Clerk, United States District Court. The cost would be \$196 based on the records identified in the motion, (Doc. No. 61 at 2), except the Statement of Reasons, (Doc. No. 46).

**IT IS, THEREFORE, ORDERED** that, pursuant to Local Criminal Rules 5.2(E) and 55.1(F), the Clerk of Court may provide redacted sealed documents listed in his motion, (Doc. No. 61 at 2), except the Statement of Reasons, (Doc. No. 46), upon satisfactory payment of the cost.

**IT IS FURTHER ORDERED** that the defendant may not provide such materials to any other person absent further order of the Court.

Signed: March 29, 2017



Robert J. Conrad, Jr.  
United States District Judge

